



Thomas G. Ambrosino
City Manager

City of Chelsea
EXECUTIVE OFFICE
City Hall, 500 Broadway
Chelsea, Massachusetts 02150
tambrosino@chelseama.gov

Telephone: (617) 466-4100
Fax: (617) 466-4175

June 1, 2016

The Honorable Chelsea City Council
Chelsea City Hall
500 Broadway
Chelsea, Massachusetts 02150

Re: *Zoning Ordinance Amendments*

Dear Councilors:

At long last, I am submitting for your review and consideration a package of proposed Amendments to the Chelsea Zoning Ordinance. These proposals represent several months of work and a lot of deliberation by both my office and the Office of Planning & Development.

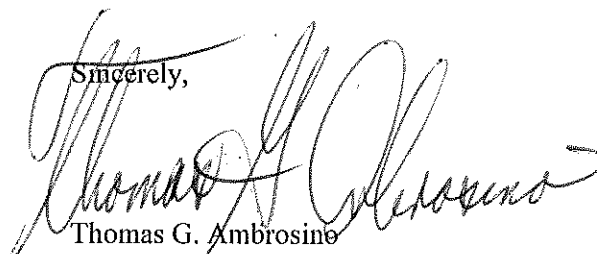
The Amendments include some significant changes to our Zoning Ordinance. Among other items, there are amendments for the following: to mandate affordable housing for any development of 10 units or more; to reduce required parking in the Downtown Broadway area to encourage residential development above storefronts, which I believe is essential to change the character of that area; to allow for the operation of food trucks in the City; to make it easier to locate counseling services for the serious opioid crisis negatively impacting our community; and to provide an interim moratorium on development in the Naval Hospital Districts while the City considers a comprehensive rezoning of that area.

I recognize that some of these proposals will be controversial, and that there are legitimate arguments on both sides of these issues. I merely ask that the Council engage in frank and robust discussion and then make its best informed judgment as to which, if any, of these proposals to enact.

I leave the timing of the initial public hearing on these matters to the judgment of the City Council. You may immediately advertise the package for public hearing and then debate this package over the course of the Summer, or you may defer the entire matter to the Fall. Just be advised that these changes will impact development once the initial public hearing is advertised.

John DePriest and I will be available to answer any questions that the Council has about these amendments.

Sincerely,



Thomas G. Ambrosino
City Manager

Attachment

Cc: Deputy City Manager Ned Keefe
Director of Planning & Development John DePriest

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NOW, THEREFORE, BE IT ORDAINED, that the Revised Code of Ordinances of the City of Chelsea as amended, be further amended and adopted as follows:

SECTION 1

That Chapter 34, Article X Definitions, Section 34-241, be amended by adding to the end of the definition of *Bed and Breakfast* the following sentence:

This category and definition shall include any online home rental services for transient occupancy, including AirBnB and other similar online and social media home sharing or room sharing services, provided that the room offered for lease or sharing is within an existing legally occupied dwelling unit.

SECTION 2

That Chapter 34, Article X Definitions, Section 34-241, be amended by adding to the end of the definition of *Kennel* the following terms:

“but this definition shall not include any business that meets the definition of Dog Kennel/Dog Daycare.”

SECTION 3

That Chapter 34, Article X Definitions, Section 34-241, be amended by changing the heading of the definition of “*Dog kennels and dog daycare*” to “*Dog Kennel/Dog Daycare*”.

SECTION 4

That Chapter 34, Article X Definitions, Section 34-241, be amended by adding the definition of *Substance Abuse Counseling Center* to read as follows:

Substance Abuse Counseling Center shall mean any facility that provides substance abuse counseling practiced by a Massachusetts licensed professional, on an outpatient basis. A substance abuse counseling center shall **not** include any dispensing of medication to treat substance use disorders. The term substance abuse counseling center does not include hospitals, medical marijuana treatment centers, or substance abuse treatment centers. Any facility that dispenses any medication for the treatment of substance use disorders shall be determined to be a Substance Abuse Treatment Center and subject to that definition.

SECTION 5

That Chapter 34, Article X Definitions, Section 34-241, be amended by changing the definition of *Light Industry or Light Manufacturing* as follows:

Changing subsection 1(b) to read: Laboratory or research establishments, including renewable or alternative energy research and development facilities.

And

Adding a new subsection 1(f) to read: Renewable or alternative energy manufacturing facilities.

SECTION 6

That Chapter 34, Article III Use Regulations, be amended by adding a new Section 34-52 as follows:

Sec. 34-52. Retail Business (BR) District

(a) Residential dwelling units within the Retail Business (BR) District shall be prohibited from being located in the basement and ground floor.

And

Delete subsection (a) of Chapter 34, Article IV Dimensional Regulations, Section 34-77, which reads as follows

(a) *Retail Business (BR) District.* A residential use or business use with dwelling permitted in the Retail Business District shall conform to the requirements of height, lot size, yard, useable open space, and floor area ratio as provided for in the R2 district.

SECTION 7

That Chapter 34, Article II Zoning Districts, Section 34-29 and the accompanying Zoning Map be amended by extending the Light Industrial/Office 2 (LI2) District from Parcel 59-54 and Parcel 59-68 to Parcel 59-42 and Parcel 59-69.



SECTION 8

That Chapter 34, Article XIII Table of Principle Use Regulations, Section 34-300, be revised as follows for the uses set forth below:

	R1	R2	R3	BR	BR2	BH	B	SC	W	I	LI	LI2	NHR	NHC
Bakery, delicatessen, candy, fish, including accessory food service	N	N	N	Y	Y	Y	SP	Y	Y	N	SP	SP	N	Y
Food Handling and Preparation Facilities	N	N	N	N	N	N	N	N	N	SP	SP	SP	N	N
Restaurant, including service of alcoholic beverages	N	N	N	Y	Y	Y	Y	Y	SP	SP	SP	SP	Y	Y
Bank, financial agency	N	N	N	Y	Y	Y	SP	Y	Y	Y	SP	SP	Y	Y
Dog Kennel/Dog DayCare	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	N	N
Convenience store with hours of operation not exceed 5:00 am to 11:00 pm	N	N	N	SP	SP	SP	SP	SP	N	SP	N	N	N	SP
Gasoline sales with convenience store	N	N	N	N	N	SP	SP	SP	N	SP	N	N	N	N
Substance abuse counselling center	N	N	N	N	N	SP	N	SP	N	SP	N	SP	N	N
Assisted and/or independent living facility	N	SP	SP	SP	SP	N	N	N	SP	N	N	N	SP	N

SECTION 9

That Chapter 34, Article XII Table of Required off-Street Parking Spaces, Section 34-283 be amended by changing the second subsection under Dwellings as follows:

Each dwelling unit in a building containing three or more dwelling units except in the Waterfront (W), Naval Hospital Residential (NHR), Residential 3 (R3), and Retail Business (BR) Districts	1.5 parking spaces, except for the following: two in the Waterfront (W) District; one space in the Naval Hospital Residential (NHR) District and Residential 3 (R3) District; and 0.5 spaces in the Retail Business (BR) District. Plus 0.5 additional spaces for each bedroom in excess of two in any unit in all zoning districts.
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SECTION 10

That Chapter 34, Article VII Special Residential Regulations be amended by adding a new Section 34-156 Inclusionary Housing, which shall read as follows:

Section 34-156. Inclusionary housing.

(a) Purpose and Intent

The purpose of this Section is as follows:

- (1) To ensure that all development or redevelopment of ten or more dwelling units generates a minimum of ten percent affordable housing units which qualify for listing in the Massachusetts Department of Housing and Community Development's (DHCD) Subsidized Housing Inventory (SHI);
- (2) To ensure that such affordable housing is made available to all eligible households on a non-discriminatory basis in accordance with the federal Fair Housing Act of 1968 and M.G.L. c. 151, as amended, and any regulations promulgated under federal and state law;
- (3) To ensure that such housing remains affordable over the long term, and that to the extent allowed by law, preference is given to Chelsea residents;
- (4) To maintain an economically integrated community by promoting a mix and distribution of affordable housing opportunities throughout Chelsea;
- (5) To increase the production of affordable housing units to meet existing and anticipated housing and employment needs within the City;
- (6) To mitigate the impacts of commercial and residential development on the availability and cost of housing and especially housing affordable to low and moderate income households;
- (7) To provide a mechanism by which petitioner can contribute in a direct way to increasing the supply of affordable housing through the creation of affordable housing units and fee-in lieu contributions from the application of this Section.

(b) Definitions

Affordable Housing Deed Rider: A deed rider or other legally binding instrument in a form consistent with the Local Initiative Program (LIP) requirements and acceptable under the LIP that will ensure the affordability of the Affordable Housing Unit (AHU) for a term of years established by the Zoning Board of Appeals, but no less than forty years, that is appended to the deed to an AHU.

Affordable Housing Restriction (AHR): A Deed Rider, covenant, contract, mortgage agreement, and/ or other legal instrument, acceptable in form and substance to the City, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and that provides for the administration, monitoring, and/or enforcement of the restriction during the term of affordability. An AHR shall be placed on the land in perpetuity or for the maximum period allowed by law, and entered into as an agreement under the provisions of M.G.L. c. 184, Sections 31 to 33 or other equivalent state law.

Affordable Housing Trust Fund Board (AHTFB): The Affordable Housing Trust Fund Board (AHTFB) oversees the City of Chelsea's Affordable Housing Trust Fund. The AHTFB advises and assists in the creation of a new affordable housing and the preservation, rehabilitation and maintenance of existing affordable housing in the City of Chelsea. The AHTFB is authorized to receive and accept contributions to the trust fund.

Affordable Housing Unit (AHU): A residential unit that is restricted in its sale, lease, and/or rental to a Qualified Income-Eligible Household at specific price limits that qualify such residential unit for inclusion in the Massachusetts Department of Housing and Community Development's (DHCD) Subsidized Housing Inventory (SHI).

Area Median Income (AMI): The median family income, adjusted for household size, for the Metropolitan Statistical Area that includes the City of Chelsea, as determined by the U.S. Department of Housing and Urban Development (HUD).

Inclusionary Housing Project: Any proposed development or redevelopment of ten or more dwelling units on one or more contiguous parcels, whether such units are proposed as-of-right, under a special permit process, or proposed pursuant to "the Subdivision Control Law" M.G. L. c. 41, Sections 81K to 81GG inclusive, including divisions of land that do not require subdivision approval (ANR plans).

Local Initiative Program (LIP): A program administered by the Massachusetts Department of Housing and Community Development (DHCD) to encourage cities and towns to create low and moderate-income housing through means other than a comprehensive permit under M.G.L. c. 40B.

Market-Rate Housing: A residential unit that is not restricted in its sale, lease, and/or rental at specific price limits.

Qualified Income-Eligible Household: A household with combined incomes that do not exceed 80 percent of the median income for the Metropolitan Statistical Area that includes the City of

Chelsea, with adjustments for household size as reported by the most recent information from the United States Department of Housing and Urban Development (HUD), or successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.

Qualified Purchaser: Qualified Income-Eligible Household that purchases and occupies an Affordable Housing Unit as its principal residence.

Qualified Renter or Qualified Tenant: Qualified Income-Eligible Household that rents and occupies an Affordable Housing Unit as its principal residence.

(c) Applicability.

The provisions of this Section shall apply to any proposed development or redevelopment of ten or more dwelling units on one or more contiguous parcels, whether such units are proposed as-of-right, under a special permit process, or proposed pursuant to the Subdivision Control Law M.G.L. c. 41, Sections 81K to 81GG inclusive, including divisions of land that do not require subdivision approval (ANR plans). The following provisions shall be required for all inclusionary housing projects.

- (1) In any development subject to this Section, at least 10 percent of the dwelling units shall be Affordable Housing Units (AHU). For inclusionary housing projects that require fractional units please see subsection (e)(4). Nothing shall preclude a petitioner from providing more AHUs than the number required.
- (2) Each AHU created under this Section shall be sold or rented to a Qualified Income-Eligible Household, except that when the petitioner provides at least one-half of the required AHUs for households with income at or below 50 percent of AMI, adjusted for household size, the remaining AHUs may be sold or rented to households with incomes up to 100 percent of AMI, adjusted for household size, if approved by the City of Chelsea Department of Planning and Development.
- (3) No building permit shall be issued for any unit in the development until the Director of Inspectional Services/Zoning Enforcement Officer receives verification that the AHR has been approved by DHCD and the City of Chelsea Department of Planning and Development and has been recorded with the Suffolk County Registry of Deeds.

(d) Exemptions

This Section shall not apply to the rehabilitation of any building or structure wholly or substantially destroyed or damaged by catastrophe, provided that no rehabilitation or repair shall increase the number of dwelling units on the lot as existed prior to the damage or destruction thereof, except in conformance with this Ordinance.

(e) Mandatory Provision of Affordable Units

The Zoning Board of Appeals shall require that the petitioner comply with the following provisions for Inclusionary Housing Projects.

- (1) *Siting*: Affordable housing units shall be dispersed and sited throughout a development so as not to be in less desirable locations than the development's market-rate units.
- (2) *Design and Construction*: Affordable housing units shall be comparable to and indistinguishable from market-rate units in interior and exterior building materials and finishes, windows, appliances, and other improvements related to the energy efficiency of the units.
- (3) *Rights and Privileges*: Owners and tenants of AHUs and market-rate units shall have equal rights and privileges to access and use of the development's amenities and facilities.
- (4) *Fractional Units*: Where the required number of AHUs results in a fraction the Petitioner shall round up to the nearest whole number or make a fee in lieu contribution equal to but not less than that fraction multiplied by \$150,000 per required AHU or an amount adjusted by a majority vote of the Zoning Board of Appeals upon approval by the City Manager.
- (5) *Phasing*: Affordable housing units shall not be the last units to be built in any development and/or redevelopment covered by this Section V.H.
- (6) *Non-Avoidance by Phasing or Segmentation*: A development shall not be phased or segmented in a manner to avoid compliance with this Section. The Zoning Board of Appeals shall not approve any application for development or redevelopment that results in ten or more new dwelling units if the land or parcels of land were held in common ownership (including ownership by related or jointly controlled persons or entities) and were subdivided or otherwise modified to avoid compliance without complying with this Section. Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land that have been in the same common ownership at any time subsequent to the date of adoption of this Section. This Section shall also be enforceable against purchasers of land previously held in common ownership with land that received, after the date of adoption of this Section, approvals or permits for development, to the effect that units developed under such previous development shall be counted toward the calculation of number of units under this Section.

(f) Fees-in-Lieu-of Affordable Housing Units

- (1) As an alternative to the requirements of Subsections (c) and (e) of this Section, and at the sole discretion of the Department of Planning & Development, the developer may contribute a fee to the City's AHTFB in lieu of providing a portion of the required AHUs within the proposed development.

- (2) The fee in lieu of providing one or more AHUs shall be \$150,000 per required AHU. This fee may be adjusted by a majority vote of the Zoning Board of Appeals upon approval by the City Manager.
- (3) Any payment to the AHTFB as an in lieu contribution for AHUs shall be made as follows: at least 50% of the total owed prior to issuance of a Building Permit; and the remaining total owed prior to issuance of an Occupancy Permit.

(g) Restrictions

- (1) *Restrictive documents:* To ensure unit affordability, AHUs shall be rented or sold subject to applicable AHR, acceptable to the City and established in accordance with the standards of the DHCD, or its successor entity, or such additional programs as may be adopted by the Commonwealth or its agencies, restricting the use and occupancy, rent level, and sales price of such AHUs.
- (2) *Term of Affordable Housing Restriction:* An AHR shall ensure that AHUs created under this section shall remain affordable in perpetuity or for the longest period of time allowed by law. All restrictive documents shall be enforceable and renewable by the City pursuant to applicable law.
- (3) *DHCD SHI:* An AHU shall be restricted in its initial and any subsequent sale, lease, and/or rental to a Qualified Income-Eligible Household at a specific price limit that will qualify such residential unit for inclusion in the DHCD SHI.
- (4) *Selection of Eligible Tenants and Homeowners:* There shall be a fair and reasonable procedure in compliance with fair housing laws for the selection of tenants for affordable rental units and for the selection of homeowners for affordable homeownership units. The City may contract with a quasi-public, public, and/or private entity, experienced in affordable housing operation, for provision of tenant and homeowner selection services but shall be required to monitor the performance of any private entity providing such services and shall retain final responsibility for ensuring compliance.
- (5) *Income and Asset Limits:* Qualified Income-Eligible Household income of prospective purchasers and renters shall not exceed 80 percent of area median income based on household size as determined by HUD. Qualified Purchaser or Qualified Renter shall also be required to demonstrate that total household assets, other than income, are not so high that a household has no substantial need of a rental unit with a reduced rent or of an ownership unit with a reduced purchase price.
- (6) *Occupancy:* The AHR for AHUs shall require, whether the unit initially is sold or rented, that the occupant of that unit must be a Qualified Income-Eligible Household. This provision shall not prohibit a unit initially designated as owner-occupied from being leased, so long as it is a lease qualifying under this Section and the occupant is a Qualified Income-Eligible Household.